



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3295/P1
DAK&PJK:wlj:ch

* LPS - INSERTS
OUT OF ORDER *

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert 1-1

1 AN ACT *to amend* 40.51 (8), 40.51 (8m), 66.0137 (4), 111.91 (2) (p), 120.13 (2) (g),
2 185.981 (4t), 185.983 (1) (intro.), 250.042 (2) (a), 252.04 (1) and 252.04 (8); and
3 *to create* 252.04 (9m), 252.041 (1) (am) and 632.865 of the statutes; **relating**
4 **to:** prohibiting immunization of certain children and pregnant women with
5 vaccines containing certain levels of mercury except during a state of
6 emergency related to public health, ^{and,} prohibiting different insurance coverage of
7 immunizations on the basis of the amount of mercury contained in the vaccine
8 used, and providing a penalty,

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) must carry out a statewide immunization program to eliminate certain communicable diseases, such as mumps, measles, and rubella. This bill prohibits, subject to a misdemeanor, a person from immunizing a child under three years of age or a woman who is known by the immunizer to be pregnant if the vaccine used for the immunization contains more than 0.5 microgram of mercury per 0.5 milliliter dose, or is an influenza vaccine that contains more than 1.0 microgram of mercury per 0.5 milliliter dose.

Under current law, during the period in which DHFS is designated by the governor as the lead state agency to deal with a state of emergency related to public

for children

and providing a penalty plain

health, DHFS may order any person to receive a vaccination unless the vaccination is reasonably likely to lead to serious harm to the person or the person refuses the vaccination for reasons of religion or conscience. DHFS may isolate or quarantine a person who refuses the vaccination order for these reasons. This bill authorizes DHFS to order persons to receive vaccinations using vaccine or another product that contains levels of mercury that are otherwise prohibited under the bill. This authorization is effective only if the secretary of health and family services finds and the governor concurs that a state of emergency related to public health makes necessary the administration of the vaccine.

The bill prohibits any health care plan, including a self-insured health plan of the state or a municipality, that covers immunizations from providing a different level of coverage for an immunization, imposing different cost-sharing requirements for an immunization, or reimbursing immunization costs at a different rate on the basis of the amount of mercury contained in the vaccine or other product used for the immunization.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INS A
1 SECTION 1. 40.51 (8) of the statutes is amended to read:

2 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
3 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
4 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865,
5 632.87 (3) to (5), 632.895 (5m) and (8) to (14), and 632.896.

6 SECTION 2. 40.51 (8m) of the statutes is amended to read:

7 40.51 (8m) Every health care coverage plan offered by the group insurance
8 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
9 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865, and 632.895 (11) to (14).

10 SECTION 3. 66.0137 (4) of the statutes is amended to read:

↓

Ins Accontd

1 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
2 a village provides health care benefits under its home rule power, or if a town
3 provides health care benefits, to its officers and employees on a self-insured basis,
4 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
5 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.865, 632.87
6 (4) and (5), 632.895 (9) to (14), 632.896, and 767.25 (4m) (d).

7 SECTION 4. 111.91 (2) (p) [✓] of the statutes is amended to read:

8 111.91 (2) (p) The requirements related to coverage of drugs and devices under
9 s. 632.853 and low-mercury ^{or mercury-free} immunizations under s. 632.865. [✓]

10 SECTION 5. 120.13 (2) (g) [✓] of the statutes is amended to read:

11 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
12 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
13 632.85, 632.853, 632.855, 632.865, [✓] 632.87 (4) and (5), 632.895 (9) to (14), 632.896, and
14 767.25 (4m) (d).

15 SECTION 6. 185.981 (4t) [✓] of the statutes is amended to read:

16 185.981 (4t) A sickness care plan operated by a cooperative association is
17 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
18 632.853, 632.855, 632.865, [✓] 632.87 (2m), (3), (4), and (5), 632.895 (10) to (14), and
19 632.897 (10) and chs. 149 and 155.

20 SECTION 7. 185.983 (1) (intro.) [✓] of the statutes is amended to read:

21 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
22 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
23 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
24 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
25 632.855, 632.865, [✓] 632.87 (2m), (3), (4), and (5), 632.895 (5) and (9) to (14), 632.896,

✓

Just could

1 and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
2 shall:

(END INSERT A)
3 ~~SECTION 8. 250.042 (2) (a) of the statutes is amended to read:~~

4 250.042 (2) (a) ~~Purchase~~ Subject to s. 252.04 (9m), purchase, store, or distribute
5 antitoxins, serums, vaccines, immunizing agents, antibiotics, and other
6 pharmaceutical agents or medical supplies that the department determines are
7 advisable to control a public health emergency.

8 **SECTION 9.** 252.04 (1) of the statutes is amended to read:

9 252.04 (1) ~~The~~ Subject to sub. (9m), the department shall carry out a statewide
10 immunization program to eliminate mumps, measles, rubella (German measles),
11 diphtheria, pertussis (whooping cough), poliomyelitis and other diseases that the
12 department specifies by rule, and to protect against tetanus. Any person who
13 immunizes an individual under this section shall maintain records identifying the
14 manufacturer and lot number of the vaccine used, the date of immunization and the
15 name and title of the person who immunized the individual. These records shall be
16 available to the individual or, if the individual is a minor, to his or her parent,
17 guardian or legal custodian upon request.

18 **SECTION 10.** 252.04 (8) of the statutes is amended to read:

19 252.04 (8) ~~The~~ Subject to sub. (9m), the department shall provide the vaccines
20 without charge, if federal or state funds are available for the vaccines, upon request
21 of a school district or a local health department. The department shall provide the
22 necessary professional consultant services to carry out an immunization program,
23 under the requirements of sub. (9), in the jurisdiction of the requesting local health
24 department. Persons immunized may not be charged for vaccines furnished by the
25 department.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-4321/1

RLR:jld:rs

Wanted by Friday

2005 BILL

RMNR

J-note

LPS
Please
check
auto refs

Regen

1

AN ACT *to create* 252.04 (12) of the statutes; **relating to:** mercury in vaccines.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Health and Family Services to carry out a statewide immunization program. This bill prohibits administering a vaccine containing mercury. However, if a mercury-free vaccine is not manufactured or is not available for purchase, a vaccine that contains less than a trace amount of mercury (0.5 micrograms of mercury per 0.5 milliliter dose) may be administered. If neither a mercury-free vaccine nor a vaccine containing only a trace amount of mercury is manufactured or if neither is available for purchase, the vaccine containing the least amount of mercury may be administered.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

~~SECTION 1. 252.04 (12) of the statutes is created to read:~~

3

~~252.04 (12) (a) Except as provided in par. (b), no person may administer a vaccine that contains mercury in this state.~~

4

5

~~(b) If a vaccine containing no mercury is not manufactured or is not available for purchase, a vaccine containing less than 0.5 micrograms of mercury per 0.5~~

6

INS
ANALYSIS →

enact 1-1 ✓

drugs

BILL

1 milliliter dose may be administered. If a vaccine containing less than 0.5 micrograms
2 of mercury per 0.5 milliliter dose is not manufactured or is not available for purchase,
3 the vaccine with the least amount of mercury may be administered.

SECTION 2. Effective date.

5 (1) This act takes effect on the first day of the 7th month beginning after
6 publication.

7 (END)

✓INS A from 3295/P1

✓INS B

✓INS C from 3295/P1

D-note

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4321/2ins
RLR:.....

1

JWS ANALYSIS:

Beginning ^{per}6 months after this bill is enacted as an act, the bill prohibits any person from administering a drug that contains more than 0.5 micrograms of mercury per 0.25 milliliters or 0.25 grams of drug to an individual. Beginning two years after this bill is enacted as an act, the bill prohibits any person from administering a drug that contains any mercury to an individual. The prohibition applies to prescription and over-the-counter drugs, including vaccines. However, the prohibition does not apply if a patient or his or her parent or guardian signs a consent form that provides warnings about adverse effects of mercury. A person who violates the prohibition against administering drugs containing mercury may be fined not more than \$500, imprisoned for not more than 30 days or both.

The bill also provides that the secretary of the Department of Health and Family Services may issue a declaration that a public health emergency, epidemic, drug shortage, or other incident makes necessary the administration of drugs that contain more than the permitted level of mercury. Even if the secretary issues such a declaration, a patient must provide written informed consent before receiving a drug containing more than the permitted level of mercury.

The bill prohibits any health care plan, including a self-insured health plan of the state or a municipality, that covers immunizations for children from providing a different level of coverage for such an immunization, imposing different cost-sharing requirements for the immunization, or reimbursing the immunization costs at a different rate on the basis of the amount of mercury contained in the vaccine or other product used for the immunization.

Finally, the bill requires the Department of Health and Family Services to test the mercury content of drugs available in this state and to post the test results on the Department's web site.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

2

SECTION 1. 250.047 of the statutes is created to read:

3

250.047 Mercury in drugs. (1) In this section:

4

(a) "Drug" has the meaning given in s. 450.01 (10).

5

(b) "Patient" means a person to whom a drug is administered.

6

(2) (a) Except as provided in sub. (3), after the date that is 182 days after the

7

effective date of this subsection ... [revisor inserts date], no person may administer

INS B
cont

a drug that contains more than 0.5 micrograms of mercury per 0.25 milliliters or 0.25 grams of drug to an individual in this state.

(b) Except as provided in sub. (3), after the date that is 2 years after the effective date of this subsection... [revisor inserts date], no person may administer a drug that contains any mercury to an individual in this state.

(3) Sub. (2) does not apply to administration of a drug if, before the drug is administered, the patient, or his or her parent or guardian, signs the consent form under sub. (4). A person administering a drug under this subsection shall retain the signed consent form, or a copy of the form, in the patient's medical record.

(4) The department shall create and make available a form that contains all of the following statements:

(a) The patient, or his or her parent or guardian, has been informed that a drug to be administered to the patient contains mercury.

(b) The patient, or his or her parent or guardian, has been advised of all of the following:

1. All forms of mercury are dangerous toxins.

2. Exposure to even low levels of mercury may result in irreversible systemic damage to the brain, nervous system, or other organs or systems in humans or animals.

3. Mercury ingestion may cause adverse behavioral or other changes.

(c) The patient, or his or her parent or guardian, consents to the administration of the drug.

(5) (a) If the secretary finds that an actual or potential incident, public health emergency, epidemic, or drug shortage makes necessary the administration of a drug containing more mercury than permitted under sub. (2), and the governor concurs

INS B
cont

1 with the finding in writing, the secretary may issue a declaration that use of the drug
2 is necessary for a period not to exceed 12 months. Within 48 hours after issuing a
3 declaration, the secretary shall provide a written explanation of the finding to the
4 legislature, in the manner provided in s. 13.172 (2),[✓] and to any person who submits
5 a written request for notice of declarations issued under this paragraph.[✓]

6 (b) The secretary may issue subsequent declarations under[✓] par. (a) if the
7 conditions under par. (a) are satisfied.

8 (6) [ⓑ] The department shall test drugs that are available in this state and are
9 administered to humans to determine the amount of mercury in the drugs, and shall
10 semiannually post the test results, in micrograms of mercury per milliliter of drug,
11 on the department's web site. The department shall identify the test results by drug
12 manufacturer, product name, lot number, and lot expiration date.

13 (7) [ⓑ] A person who knowingly violates sub. (2)[✓] may be fined not more than[✓] \$500
14 or imprisoned for not more than 30 days or both.

15 (8) [ⓑ] A person injured as a result of a violation of sub. (2)[✓] may bring a civil action
16 for damages. The court may award the person injured as a result of a violation of sub.
17 (2) costs and reasonable attorney fees, notwithstanding the limits under s. 814.04 (1) [✓] [ⓐ]

(end ins B)

1 ~~SECTION 11. 252.04 (9m) of the statutes is created to read:~~

2 252.04 (9m) (a) Except as provided in s. 252.041 (1) (am), no person who
3 immunizes a child under 3 years of age or a woman who is known by the person to
4 be pregnant may use for the immunization a vaccine or other product that contains
5 more than 0.5 microgram of mercury per 0.5 milliliter dose, other than an influenza
6 vaccine that contains 1.0 microgram or less of mercury per 0.5 milliliter dose.

7 (b) Whoever violates par. (a) may be fined not more than \$500 or imprisoned
8 for not more than 30 days, or both.

9 SECTION 12. 252.041 (1) (am) of the statutes is created to read:

10 252.041 (1) (am) Notwithstanding par. (a), order any individual to receive
11 vaccination using a vaccine or other product that contains more than 0.5 microgram
12 of mercury per 0.5 milliliter dose or an influenza vaccine that contains more than 1.0
13 microgram of mercury per 0.5 milliliter dose, if the secretary finds and the governor
14 concurs that a state of emergency related to public health makes necessary the
15 administration of a vaccine that exceeds levels specified in s. 252.04 (9m) (a).

16 ~~SECTION 13. 632.865 of the statutes is created to read:~~

17 **632.865 Coverage of low-mercury vaccines.** (1) In this section:

18 (a) "Health care plan" has the meaning given in s. 628.36 (2) (a) 1.

19 (b) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

20 (2) A health care plan or a self-insured health plan that provides coverage of
21 immunizations ^{for children} may not provide a different level of coverage for an immunization,
22 impose different cost-sharing requirements for an immunization, or reimburse
23 ^{the cost of an} immunization ~~costs~~ at a different rate, on the basis of the amount of mercury
24 contained in the vaccine or other product used for the immunization.

25 SECTION 14. Initial applicability.



(b)

or mercury-free

administered to a child

Just Control

1 (1) The treatment of sections 40.51 (8) and (8m), 66.137 (4), 111.91 (2) (p),
2 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865 of the statutes first
3 applies to all of the following:

4 (a) Except as provided in paragraphs (b) and (c), a health care plan containing
5 provisions that are inconsistent with the treatment of sections 40.51 (8) and (8m),
6 66.137 (4), 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865
7 of the statutes that is renewed, and a self-insured health plan containing provisions
8 that are inconsistent with the treatment of sections 40.51 (8) and (8m), 66.137 (4),
9 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865 of the
10 statutes that is extended, modified, or renewed, on the effective date of this
11 paragraph.

12 (b) A health care plan covering employees who are affected by a collective
13 bargaining agreement containing provisions inconsistent with the treatment of
14 sections 40.51 (8) and (8m), 66.137 (4), 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t),
15 185.983 (1) (intro.), and 632.865 of the statutes that is issued or renewed on the
16 earlier of the following:

17 1. The day on which the collective bargaining agreement expires.

18 2. The day on which the collective bargaining agreement is extended, modified,
19 or renewed.

20 (c) A self-insured health plan covering employees who are affected by a
21 collective bargaining agreement containing provisions inconsistent with the
22 treatment of sections 40.51 (8) and (8m), 66.137 (4), 111.91 (2) (p), 120.13 (2) (g),
23 185.981 (4t), 185.983 (1) (intro.), and 632.865 of the statutes that is established,
24 extended, modified, or renewed on the earlier of the following:

25 1. The day on which the collective bargaining agreement expires.

↓

ens c contd

- 1 2. The day on which the collective bargaining agreement is extended, modified,
2 or renewed.

3

(ENDS INSERT C)
(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4321/2dn

RLR:A:...

Jld

Bill Cross:

As requested, this redraft is based on Nebraska Bill 790.

The Nebraska bill and this bill prohibit anyone from "administering" any type of drug that contains more than the permitted amount of mercury to a person. This may prohibit a parent from giving a child an over-the-counter drug that contains mercury. Is this what you intend? ✓

As we discussed, the Nebraska bill applies to drugs for humans and animals, but the Nebraska informed consent exception may only be used to administer a drug to a human, not an animal. As you requested, I drafted this bill so it only prohibits administering drugs that contain mercury to humans.

The exemption in the Nebraska bill for public health emergencies is not a true exception, because even if the the director of health and human services makes a finding of a public health emergency, patients must still comply with the informed consent exception before receiving a drug containing mercury. Therefore, this bill authorizes the Secretary of Health and ~~Human~~ ^{Family} Services to declare that a public health emergency, epidemic, drug shortage, or other incident makes the administration of drugs containing mercury necessary, but the declaration just serves as public notice.

This bill requires ✓ DHFS to test the mercury content of drugs for humans that are available in the state. The bill does not give DHFS authority to seize drugs, so presumably DHFS must purchase the drugs. The bill does not provide funding to purchase drugs. Also, the bill does not specify how many drugs DHFS must test.

The Nebraska bill requires that insurers who cover early childhood immunizations must reimburse vaccines that do not contain mercury at the same rate as vaccines that do contain mercury. This bill pertains to immunizations "for children." Would you prefer to limit the bill to immunizations provided to children under a certain age, and if so, what age?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4321/2dn
RLR:jld:jf

March 3, 2006

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Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

3/6/06

LRB 4321/2

Bill Cross

8-Note responses

- (1) just cover vaccinations/prescription drugs
 ⇒ but still have problem that bill would
 prohibit parent from "administering"
 prescription drug that contains
 mercury to own child
 Bill: then just cover vaccines

(2) - yes just humans

(3) ok

(4) Bill says fiscal notes in other states
 have been low or no cost

(5) Early childhood = under 14

call to Bill 3/7/06

How reconcile 252.041 (DHFS authority
 to require vaccination) and consent
 form requirement in bill?

Bill - eliminate emergency declaration
 provision in bill and allow
 exception to consent during
 public health emergency



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-4321/2

RLR&PJK:jld&wlj:jf

2005 BILL

Wad

"Kay"

Regen Cat.

vaccines

- 1 AN ACT *to amend* 40.51 (8), 40.51 (8m), 66.0137 (4), 111.91 (2) (p), 120.13 (2) (g),
2 185.981 (4t) and 185.983 (1) (intro.); and *to create* 250.047 and 632.865 of the
3 statutes; **relating to:** mercury in drugs, prohibiting different insurance
4 coverage of immunizations for children on the basis of the amount of mercury
5 contained in the vaccine used, and providing a penalty.

JNS A

Analysis by the Legislative Reference Bureau

Beginning six months after this bill is enacted as an act, the bill prohibits any person from administering a drug that contains more than 0.5 micrograms of mercury per 0.25 milliliters or per 0.25 grams of drug to an individual. Beginning two years after this bill is enacted as an act, the bill prohibits any person from administering a drug that contains any mercury to an individual. The prohibition applies to prescription and over-the-counter drugs, including vaccines. However, the prohibition does not apply if a patient or his or her parent or guardian signs a consent form that provides warnings about adverse effects of mercury. A person who violates the prohibition against administering drugs containing mercury may be fined not more than \$500 or imprisoned for not more than 30 days or both.

The bill also provides that the secretary of the Department of Health and Family Services (DHFS) may issue a declaration that a public health emergency, epidemic, drug shortage, or other incident makes necessary the administration of drugs that contain more than the permitted level of mercury. Even if the secretary of DHFS issues such a declaration, a patient must provide written informed consent before receiving a drug containing more than the permitted level of mercury.

JNS B

BILL

under the age of 14 years ✓
The bill prohibits any health care plan, including a self-insured health plan of the state or a municipality, that covers immunizations for children from providing a different level of coverage for such an immunization, imposing different cost-sharing requirements for the immunization, or reimbursing the immunization costs at a different rate on the basis of the amount of mercury contained in the vaccine or other product used for the immunization.

Finally, the bill requires DHFS to test the mercury content of drugs available in this state and to post the test results on its Web site. vaccines

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 40.51 (8) of the statutes is amended to read:

2 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
3 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
4 and (10), 632.747, 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865,
5 632.87 (3) to (5), 632.895 (5m) and (8) to (14), and 632.896.

6 **SECTION 2.** 40.51 (8m) of the statutes is amended to read:

7 40.51 (8m) Every health care coverage plan offered by the group insurance
8 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
9 632.748, 632.83, 632.835, 632.85, 632.853, 632.855, 632.865, and 632.895 (11) to (14).

10 **SECTION 3.** 66.0137 (4) of the statutes is amended to read:

11 66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or
12 a village provides health care benefits under its home rule power, or if a town
13 provides health care benefits, to its officers and employees on a self-insured basis,
14 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),

BILL

632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.865, 632.87
(4) and (5), 632.895 (9) to (14), 632.896, and 767.25 (4m) (d).

SECTION 4. 111.91 (2) (p) of the statutes is amended to read:

111.91 (2) (p) The requirements related to coverage of drugs and devices under
s. 632.853 and low-mercury or mercury-free immunizations under s. 632.865.

SECTION 5. 120.13 (2) (g) of the statutes is amended to read:

120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
632.85, 632.853, 632.855, 632.865, 632.87 (4) and (5), 632.895 (9) to (14), 632.896, and
767.25 (4m) (d).

SECTION 6. 185.981 (4t) of the statutes is amended to read:

185.981 (4t) A sickness care plan operated by a cooperative association is
subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
632.853, 632.855, 632.865, 632.87 (2m), (3), (4), and (5), 632.895 (10) to (14), and
632.897 (10) and chs. 149 and 155.

SECTION 7. 185.983 (1) (intro.) of the statutes is amended to read:

185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
632.855, 632.865, 632.87 (2m), (3), (4), and (5), 632.895 (5) and (9) to (14), 632.896,
and 632.897 (10) and chs. 609, 630, 635, 645, and 646, but the sponsoring association
shall:

SECTION 8. 250.047 of the statutes is created to read:

250.047 Mercury in drugs. (1) In this section:

BILL

252.04 (b) (a) In this subsection,

(a) "Drug" has the meaning given in s. 450.01 (10).

(b) "Patient" means a person to whom a drug is administered.

(2) (a) Except as provided in sub. (3), after the date that is 182 days after the effective date of this paragraph [revisor inserts date], no person may administer a drug that contains more than 0.5 micrograms of mercury per 0.25 milliliters or per 0.25 grams of drug to an individual in this state.

(2) (b) Except as provided in sub. (3), after the date that is 2 years after the effective date of this paragraph [revisor inserts date], no person may administer a drug that contains any mercury to an individual in this state.

(3) Subsection (2) does not apply to administration of a drug if, before the drug is administered, the patient, or his or her parent or guardian, signs the consent form under sub. (4). A person administering a drug under this subsection shall retain the signed consent form, or a copy of the form, in the patient's medical record.

(4) The department shall create and make available a form that contains all of the following statements:

(a) The patient, or his or her parent or guardian, has been informed that a drug to be administered to the patient contains mercury.

(b) The patient, or his or her parent or guardian, has been advised of all of the following:

1. All forms of mercury are dangerous toxins.

2. Exposure to even low levels of mercury may result in irreversible systemic damage to the brain, nervous system, or other organs or systems in humans or animals.

3. Mercury ingestion may cause adverse behavioral or other changes.

BILL

Vaccine

1 3. (c) The patient, or his or her parent or guardian, consents to the administration
2 of the drug plain
3

4 (5) (a) If the secretary finds that an actual or potential incident, public health
5 emergency, epidemic, or drug shortage makes necessary the administration of a drug
6 containing more mercury than permitted under sub. (2), and the governor concurs
7 with the finding in writing, the secretary may issue a declaration that use of the drug
8 is necessary for a period not to exceed 12 months. Within 48 hours after issuing a
9 declaration, the secretary shall provide a written explanation of the finding to the
10 legislature, in the manner provided in s. 13.172 (2), and to any person who submits
11 a written request for notice of declarations issued under this paragraph.

12 (b) The secretary may issue subsequent declarations under par. (a) if the
conditions under par. (a) are satisfied.

13 4 (f) (6) The department shall test drugs that are available in this state and are
14 administered to humans to determine the amount of mercury in the drugs, and shall
15 semiannually post the test results, in micrograms of mercury per milliliter of drug,
16 on the department's Web site. The department shall identify the test results by drug
17 manufacturer, product name, lot number, and lot expiration date.

18 4 (g) (7) A person who knowingly violates sub. (2) may be fined not more than \$500
19 or imprisoned for not more than 30 days or both.

20 4 (h) (8) A person injured as a result of a violation of sub. (2) may bring a civil action
21 for damages. The court may award the person injured as a result of a violation of sub.
22 (2) costs and reasonable attorney fees, notwithstanding the limits under s. 814.04 (1).

23 SECTION 9. 632.865 of the statutes is created to read:

24 632.865 Coverage of low-mercury or mercury-free vaccines. (1) In this
25 section:

BILL

- Insert 6-1* ✓
- 1 *b* (a) "Health care plan" has the meaning given in s. 628.36 (2) (a) 1.
- 2 *c* (b) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

3 (2) A health care plan or a self-insured health plan that provides coverage of
4 immunizations for children may not provide a different level of coverage for an
5 immunization administered to a child, impose different cost-sharing requirements
6 for an immunization administered to a child, or reimburse the cost of an
7 immunization administered to a child at a different rate, on the basis of the amount
8 of mercury contained in the vaccine or other product used for the immunization.

9 **SECTION 10. Initial applicability.**

10 (1) The treatment of sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (p),
11 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865 of the statutes first
12 applies to all of the following:

13 (a) Except as provided in paragraphs (b) and (c), a health care plan containing
14 provisions that are inconsistent with the treatment of sections 40.51 (8) and (8m),
15 66.0137 (4), 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865
16 of the statutes that is renewed, and a self-insured health plan containing provisions
17 that are inconsistent with the treatment of sections 40.51 (8) and (8m), 66.0137 (4),
18 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865 of the
19 statutes that is extended, modified, or renewed, on the effective date of this
20 paragraph.

21 (b) A health care plan covering employees who are affected by a collective
22 bargaining agreement containing provisions inconsistent with the treatment of
23 sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t),
24 185.983 (1) (intro.), and 632.865 of the statutes that is issued or renewed on the
25 earlier of the following:

BILL

1. The day on which the collective bargaining agreement expires.

2 2. The day on which the collective bargaining agreement is extended, modified,
3 or renewed.

(c) A self-insured health plan covering employees who are affected by a collective bargaining agreement containing provisions inconsistent with the treatment of sections 40.51 (8) and (8m), 66.0137 (4), 111.91 (2) (p), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), and 632.865 of the statutes that is established, extended, modified, or renewed on the earlier of the following:

9 1. The day on which the collective bargaining agreement expires.

10 2. The day on which the collective bargaining agreement is extended, modified,
11 or renewed.

12 (END)

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4321/3ins
RLR:.....

1 **INS A:**

2 ~~4~~ Current law requires the Department of Health and Family Services (DHFS) ✓
3 to carry out a statewide vaccination program to eliminate certain communicable
4 diseases. Children admitted to school or day care must show evidence of vaccination
5 unless the child's parent or guardian provides a written objection to vaccination for
6 reasons of health, religion, or personal conviction. DHFS must provide vaccines to
7 a school district or local health department free of charge, if the school district or local
8 health department requests the vaccines and if state or federal funds for the vaccines
9 are available. If the governor declares a public health emergency and designates
 DHFS as the lead state agency to respond to the public health emergency, DHFS may
 order a person to receive a vaccination unless the vaccine is reasonably likely to lead
 to serious harm for the person or unless the person refuses the vaccination for
 reasons of religion or conscience.

2

3 **Ins B:**

4 ~~20~~ Also, the bill does not prohibit administering a vaccine that contains more than ✓
5 the permitted level of mercury to comply with a vaccination order issued by DHFS ✓
6 during a public health emergency.

4

5

6 **Ins 5-2:**

7 (e) Paragraph (b) ✓ does not apply to administration of a vaccine to an individual
8 if the department orders the individual to receive the vaccination under s. 252.41 (1) ✓
9 (a). ✓

9

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4321/3ins
PJK:.....

INSERT 6-1

- 1 (a) "Child" means a person under 14 years of age. ✓

(END OF INSERT 6-1)

Northrop, Lori

From: Cross, William
Sent: Monday, April 10, 2006 9:55 AM
To: LRB.Legal
Subject: Draft Review: LRB 05-4321/3 Topic: Vaccines containing mercury

Please Jacket LRB 05-4321/3 for the ASSEMBLY.